

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JUL - 1 2002

NEIL GAIMAN, et al.,

Plaintiffs,

v.

TODD McFARLANE, et al.,

Defendants-Counterclaimants,

FILED/RECEIVED
JOSEPH W. SKUPNIEWITZ, CLERK
CASE
NUMBER

Case No. 02-C-0048-S

**AFFIDAVIT OF TODD McFARLANE IN SUPPORT OF
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Defendants Todd McFarlane, being first duly sworn on oath, states as follows:

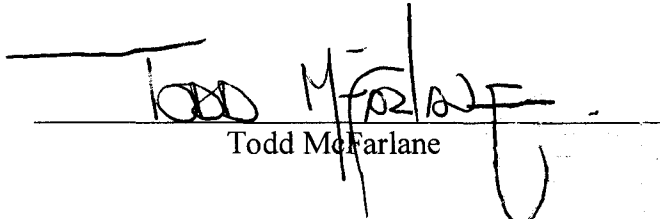
1. I am the president and chief executive officer of defendant Todd McFarlane Productions, Inc.
2. The United States copyright registrations for issues 9 and 26 of *Spawn* and issues 1 through 3 of *Angela* incorrectly show me as the copyright owner of a "work made for hire" due to a clerical error by the person filling them out. The actual owner of the copyrights is my employer, Todd McFarlane Productions, Inc., which is identified as the copyright owner on the copyright notices on the comic books. (True copies of the copyright registrations are reproduced as Exhibits C, F, J, K, and L in the Appendix to Answer of the McFarlane Defendants.)
3. To the extent that I am deemed the owner of those copyright registrations, all licensing activities of Todd McFarlane Productions described below have been undertaken with my full consent.
4. Todd McFarlane Productions, Inc. granted defendant Image Comics, Inc., a license to publish issue 26 of *Spawn*, issues 1 through 3 of *Angela*, and the trade paperback

reprints of those comic books and issue 9 of *Spawn*. Todd McFarlane Productions, Inc. granted Malibu Comics a license to publish the original issue 9 of *Spawn* because Image Comics, Inc. was not in existence at that time. (True copies of these publications are reproduced as Exhibits B, D, E, G, H, I, N and O in the Appendix to the Answer of the McFarlane Defendants.)

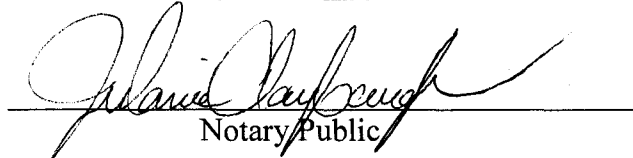
5. Todd McFarlane Productions, Inc. granted defendant TMP International, Inc. a license to create toy action figures based upon various characters in the *Spawn* comic books, including the Angela, Cogliostro, and Medieval Spawn toys that are included in this lawsuit.

6. Todd McFarlane Productions, Inc. granted various third parties, including foreign publishers, licenses to create other derivative works based upon various characters in the *Spawn* comic books that are included in this lawsuit.

7. Defendant McFarlane Worldwide, Inc., has neither created nor sold any of the *Spawn* or *Angela* publications or products included in this lawsuit.


Todd McFarlane

Subscribed and sworn to before me this 27 day of JUNE, 2002.


Notary Public

My Commission Expires: 8-31-2004